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COMMONWEALTH OF VIRGINIA, ex rel.

TERRY L. STROCK, et al.

v.

CASE NO. PUE-2001-00716

B & J ENTERPRISES, L.C.

HEARING EXAMINER'S RULING

June 24, 2002

On June 13, 2002, B & J Enterprises, L.C. ("B & J" or "Company"), by counsel, filed a Motion to Strike Comments of Joan G. Moore ("Motion to Strike") filed on May 30, 2002. Specifically, the Company requests that the section of Ms. Moore's comments entitled "Review of Sewer Systems regulated by the Commission" and its related attachments, pages A1 and A2 be struck. In support of its Motion to Strike, the Company argues that B & J's rates should not be set by means of a comparison to other regulated utilities that may or may not have similar regulatory experience or operational characteristics.

On June 19, 2002, Joan G. Moore filed a Response of Joan G. Moore to B & J's Motion to Strike Comments ("Response") claiming that the Company introduced the concept of comparing B & J's operational requirements with that of other utilities. Ms. Moore states that her testimony simply rebuts that of the Company in this regard.

Further, on June 19, 2002, the Company, by counsel, filed a Motion to Strike Comments of Joan G. Moore Relating to Blacksburg Country Club's Operation of the Sewer System (collectively "Motions to Strike") on the grounds that the comments of Ms. Moore regarding the prior operation of the sewer system by the Blacksburg Country Club are incomplete and irrelevant.

I find that both Motions to Strike should be denied. In order for her comments to be received as evidence in this proceeding, Ms. Moore will have to submit to cross-examination regarding the comments. At that time objections to her testimony and argument may be made regarding her statements. While the establishment of rates in this case will be based on applicable law and the rules of this Commission, it is premature to exclude proffered testimony or comments prior to hearing. Accordingly,

IT IS DIRECTED that the Company's Motions to Strike are denied.

Howard P. Anderson, Jr.
Hearing Examiner